

AMENDED IN SENATE AUGUST 27, 2014

AMENDED IN SENATE AUGUST 21, 2014

AMENDED IN SENATE JULY 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1450**

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**Introduced by Assembly Member Garcia**  
(Principal coauthor: Senator Lara)

January 8, 2014

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An act to amend Section 34183 of the Health and Safety Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1450, as amended, Garcia. Local government: redevelopment: revenues from property tax override rates.

Existing law dissolved redevelopment agencies and community development agencies as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies. Existing law requires revenues equivalent to those that would have been allocated to each redevelopment agency, had the agency not been dissolved, to be allocated to the Redevelopment Property Tax Trust Fund of each successor agency for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies. Existing law requires, from February 1, 2012, to July 1, 2012, inclusive, and for each fiscal year thereafter, the county auditor-controller, after deducting administrative costs, to

allocate property tax revenues in each Redevelopment Property Tax Trust Fund in a specified manner.

This bill would authorize a city or county that levies a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the general property tax rate, to make a request to an oversight board to prohibit revenues derived from that property tax rate from being deposited into a Redevelopment Property Tax Fund. This bill would authorize an oversight board to deny this request based on substantial evidence that a former redevelopment agency ~~specifically spent, pledged, or otherwise used any~~ *made a pledge of revenues that specifically included* revenues derived from the imposition of that property tax rate. This bill, for the 2014–15 fiscal year and each fiscal year thereafter, ~~if an~~ *except to the extent an* oversight board ~~does not deny this~~ *denies a* request, would prohibit any revenues derived from the imposition of that property tax rate from being allocated to a Redevelopment Property Tax Trust Fund and would, instead, require these revenues to be allocated to, and when collected to be paid into, the fund of the city or county whose voters approved the tax. The bill would require all allocations of revenues derived from the imposition of that property tax rate made by any county auditor-controller prior to July 1, 2014, to be deemed correct, and would prohibit any city, county, county auditor-controller, successor agency, or affected taxing entity from being subject to any claim, as specified. This bill would require, ~~if an oversight board denies a request to prohibit~~ *to the extent that* revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the general property tax rate, ~~from being~~ *are* deposited into a Redevelopment Property Tax Trust Fund, the county-auditor controller to allocate moneys from each Redevelopment Property Tax Trust Fund to a city or county that levies a property tax as so described after certain other allocations have been made.

By adding to the duties of local government officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following:

3 (1) The California Constitution limits property-based tax levies,  
4 with exceptions to these limits only when a local jurisdiction  
5 obtains the approval of its voting electorate to use additional  
6 property-based tax levies for specific purposes approved by the  
7 voting electorate, in accordance with applicable constitutional and  
8 statutory provisions.

9 (2) With the enactment of Chapter 5 of the 2011–12 First  
10 Extraordinary Session (Assembly Bill 26), the Legislature intended  
11 that, upon dissolution of redevelopment agencies in the State of  
12 California, property taxes that would have been allocated to  
13 redevelopment agencies are no longer deemed tax increment.  
14 ~~Instead, those taxes are deemed property tax revenues and are to~~  
15 ~~be allocated first to successor agencies to make payments on the~~  
16 ~~indebtedness incurred by the dissolved redevelopment agencies,~~  
17 ~~with remaining balances allocated in accordance with applicable~~  
18 ~~constitutional and statutory provisions.~~

19 (3) It is the intent of the Legislature in enacting this act to do  
20 all of the following:

21 (A) If a redevelopment agency had previously pledged revenues  
22 derived from the imposition of a property tax rate, approved by  
23 the voters of a city, county, or city and county to make payments  
24 in support of pension programs and levied in addition to the  
25 property tax rate limited by subdivision (a) of Section 1 of Article  
26 XIII A of the California Constitution, to pay a portion of the debt  
27 service due on indebtedness incurred by the former redevelopment  
28 agency on an approved recognized obligation payment schedule,  
29 then the successor agency shall continue to pledge those revenues,  
30 in a commensurate rate going forward. For example, if revenues  
31 derived from a pension tax rate approved by the voters of a city,

1 county, or city and county were pledged to pay up to 25 percent  
2 of the annual debt service for the indebtedness approved in a  
3 recognized obligation payment schedule, the successor agency  
4 shall continue to pay up to 25 percent of the annual debt service  
5 on the indebtedness until maturity. Any and all excess pledged  
6 revenues derived from the pension property tax rate that are not  
7 necessary to pay the debt service on the indebtedness shall be  
8 allocated and paid to the city, county, or city and county whose  
9 voters approved the pension property tax rate.

10 (B) Ensure that the use of revenues derived from the imposition  
11 of a property tax rate approved by the voters of a city, county, or  
12 city and county, to make payments in support of pension programs  
13 and levied in addition to the property tax rate limited by subdivision  
14 (a) of Section 1 of Article XIII A of the California Constitution,  
15 is consistent with the use approved by the voters of a city, county,  
16 or city and county, once revenues from such property tax rates are  
17 not needed to pay approved indebtedness of a former  
18 redevelopment agency.

19 (C) Implement the allocation and distribution of voter-approved,  
20 property-based tax revenues for pension programs under the  
21 redevelopment dissolution process in a manner that would have  
22 been consistent with the allocation and distribution of those  
23 revenues had redevelopment agencies not been dissolved, in  
24 accordance with applicable constitutional provisions.

25 (4) Further, it is the intent of the Legislature that this act not  
26 affect any property tax allocations that occurred prior to July 1,  
27 2014.

28 SEC. 2. Section 34183 of the Health and Safety Code is  
29 amended to read:

30 34183. (a) Notwithstanding any other law, from February 1,  
31 2012, to July 1, 2012, and for each fiscal year thereafter, the county  
32 auditor-controller shall, after deducting administrative costs  
33 allowed under Section 34182 and Section 95.3 of the Revenue and  
34 Taxation Code, allocate moneys in each Redevelopment Property  
35 Tax Trust Fund as follows:

36 (1) Subject to any prior deductions required by subdivision (b),  
37 first, the county auditor-controller shall remit from the  
38 Redevelopment Property Tax Trust Fund to each local agency and  
39 school entity an amount of property tax revenues in an amount  
40 equal to that which would have been received under Section 33401,

1 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections  
2 read on January 1, 2011, or pursuant to any passthrough agreement  
3 between a redevelopment agency and a taxing entity that was  
4 entered into prior to January 1, 1994, that would be in force during  
5 that fiscal year, had the redevelopment agency existed at that time.  
6 The amount of the payments made pursuant to this paragraph shall  
7 be calculated solely on the basis of passthrough payment  
8 obligations, existing prior to the effective date of this part and  
9 continuing as obligations of successor entities, shall occur no later  
10 than May 16, 2012, and no later than June 1, 2012, and each  
11 January 2 and June 1 thereafter. Notwithstanding subdivision (e)  
12 of Section 33670, that portion of the taxes in excess of the amount  
13 identified in subdivision (a) of Section 33670, which are  
14 attributable to a tax rate levied by a taxing entity for the purpose  
15 of producing revenues in an amount sufficient to make annual  
16 repayments of the principal of, and the interest on, any bonded  
17 indebtedness for the acquisition or improvement of real property  
18 shall be allocated to, and when collected shall be paid into, the  
19 fund of that taxing entity. The amount of passthrough payments  
20 computed pursuant to this section, including any passthrough  
21 agreements, shall be computed as though the requirement to set  
22 aside funds for the Low and Moderate Income Housing Fund was  
23 still in effect.

24 (2) Second, on June 1, 2012, and each January 2 and June 1  
25 thereafter, to each successor agency for payments listed in its  
26 Recognized Obligation Payment Schedule for the six-month fiscal  
27 period beginning January 1, 2012, and July 1, 2012, and each  
28 January 2 and June 1 thereafter, in the following order of priority:

29 (A) Debt service payments scheduled to be made for tax  
30 allocation bonds.

31 (B) Payments scheduled to be made on revenue bonds, but only  
32 to the extent the revenues pledged for them are insufficient to make  
33 the payments and only if the agency's tax increment revenues were  
34 also pledged for the repayment of the bonds.

35 (C) Payments scheduled for other debts and obligations listed  
36 in the Recognized Obligation Payment Schedule that are required  
37 to be paid from former tax increment revenue.

38 (3) Third, on June 1, 2012, and each January 2 and June 1  
39 thereafter, to each successor agency for the administrative cost  
40 allowance, as defined in Section 34171, for administrative costs

1 set forth in an approved administrative budget for those payments  
2 required to be paid from former tax increment revenues.

3 (4) (A) Fourth, on January 2, 2015, and each January 2 and  
4 June 1 thereafter, to a city or county that levies a property tax rate,  
5 approved by the voters of a city or county to make payments in  
6 support of pension programs and levied in addition to the property  
7 tax rate limited by subdivision (a) of Section 1 of Article XIII A  
8 of the California Constitution, an amount of property tax revenues  
9 equal to the amount of revenues derived from the imposition of  
10 that tax rate that were allocated to the Redevelopment Property  
11 Tax Trust Fund for that fiscal period.

12 (B) This paragraph shall *not* apply ~~only if an oversight board~~  
13 ~~denies a request to prohibit~~ *to the extent that* revenues derived  
14 from the imposition of a property tax rate described in subparagraph  
15 (A) ~~from being~~ *are not* deposited into a Redevelopment Property  
16 Tax Trust Fund as provided by ~~paragraph (2) of~~ subdivision (f).

17 (5) Fifth, on June 1, 2012, and each January 2 and June 1  
18 thereafter, any moneys remaining in the Redevelopment Property  
19 Tax Trust Fund after the payments and transfers authorized by  
20 paragraphs (1) to (4), inclusive, shall be distributed to local  
21 agencies and school entities in accordance with Section 34188.

22 (b) If the successor agency reports, no later than April 1, 2012,  
23 and May 1, 2012, and each December 1 and May 1 thereafter, to  
24 the county auditor-controller that the total amount available to the  
25 successor agency from the Redevelopment Property Tax Trust  
26 Fund allocation to that successor agency's Redevelopment  
27 Obligation Retirement Fund, from other funds transferred from  
28 each redevelopment agency, and from funds that have or will  
29 become available through asset sales and all redevelopment  
30 operations, are insufficient to fund the payments required by  
31 paragraphs (1) to (3), inclusive, of subdivision (a) in the next  
32 six-month fiscal period, the county auditor-controller shall notify  
33 the Controller and the Department of Finance no later than 10 days  
34 from the date of that notification. The county auditor-controller  
35 shall verify whether the successor agency will have sufficient funds  
36 from which to service debts according to the Recognized  
37 Obligation Payment Schedule and shall report the findings to the  
38 Controller. If the Controller concurs that there are insufficient  
39 funds to pay required debt service, the amount of the deficiency  
40 shall be deducted first from the amount remaining to be distributed

1 to taxing entities pursuant to paragraphs (4) and (5) of subdivision  
2 (a), and if that amount is exhausted, from amounts available for  
3 distribution for administrative costs in paragraph (3) of subdivision  
4 (a). If an agency, pursuant to the provisions of Section 33492.15,  
5 33492.72, 33607.5, 33671.5, 33681.15, or 33688 or as expressly  
6 provided in a passthrough agreement entered into pursuant to  
7 Section 33401, made passthrough payment obligations subordinate  
8 to debt service payments required for enforceable obligations,  
9 funds for servicing bond debt may be deducted from the amounts  
10 for passthrough payments under paragraph (1) of subdivision (a),  
11 as provided in those sections, but only to the extent that the  
12 amounts remaining to be distributed to taxing entities pursuant to  
13 paragraphs (4) and (5) of subdivision (a) and the amounts available  
14 for distribution for administrative costs in paragraph (3) of  
15 subdivision (a) have all been exhausted.

16 (c) The county treasurer may loan any funds from the county  
17 treasury to the Redevelopment Property Tax Trust Fund of the  
18 successor agency for the purpose of paying an item approved on  
19 the Recognized Obligation Payment Schedule at the request of the  
20 Department of Finance that are necessary to ensure prompt  
21 payments of redevelopment agency debts. An enforceable  
22 obligation is created for repayment of those loans.

23 (d) The Controller may recover the costs of audit and oversight  
24 required under this part from the Redevelopment Property Tax  
25 Trust Fund by presenting an invoice therefor to the county  
26 auditor-controller who shall set aside sufficient funds for and  
27 disburse the claimed amounts prior to making the next distributions  
28 to the taxing entities pursuant to Section 34188. Subject to the  
29 approval of the Director of Finance, the budget of the Controller  
30 may be augmented to reflect the reimbursement, pursuant to  
31 Section 28.00 of the Budget Act.

32 (e) Within 10 days of each distribution of property tax, the  
33 county auditor-controller shall provide a report to the department  
34 regarding the distribution for each successor agency that includes  
35 information on the total available for allocation, the passthrough  
36 amounts and how they were calculated, the amounts distributed  
37 to successor agencies, and the amounts distributed to taxing entities  
38 in a manner and form specified by the department. This reporting  
39 requirement shall also apply to distributions required under  
40 subdivision (b) of Section 34183.5.

(f) (1) A city or county that levies a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, may make a request to an oversight board to prohibit revenues derived from the imposition of that property tax rate from being deposited into a Redevelopment Property Tax Trust Fund.

(2) Based on substantial evidence that a former redevelopment agency ~~specifically spent, pledged, or otherwise used any~~ *made a pledge of revenues that specifically included* revenues derived from the imposition of a property tax ~~rate~~ *rate*, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, an oversight board may deny a request made pursuant to paragraph (1) *in an amount not to exceed the amount of revenues pledged by the former redevelopment agency*.

(3) Notwithstanding any other law, for the 2014–15 fiscal year and each fiscal year thereafter, ~~if an oversight board does not deny~~ *except to the extent an oversight board denies* a request as provided by paragraph (2), any revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, shall not be allocated to a Redevelopment Property Tax Trust Fund and shall instead be allocated to, and when collected shall be paid into, the fund of the city or county whose voters approved the tax.

(4) Notwithstanding any other law, all allocations of revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, made by any county auditor-controller prior to July 1, 2014, shall be deemed correct and shall not be affected by this act. A city, county, county auditor-controller, successor agency, or affected taxing entity shall not be subject to any claim for money, damages, or reallocated revenues based on any allocation of such revenues prior to July 1, 2014.



1 SEC. 3. (a) No inference shall be drawn from the enactment  
2 of this act with respect to the use, distribution, or allocation of  
3 revenues derived from the imposition of a property tax rate,  
4 approved by the voters of a city, county, or city and county to make  
5 payments in support of pension programs and levied in addition  
6 to the property tax rate limited by subdivision (a) of Section 1 of  
7 Article XIII A of the California Constitution, made by any county  
8 auditor-controller prior to July 1, 2014.

9 (b) The Legislature is aware of *City of San Jose, etc. v. Sharma*  
10 *et al.*, Court of Appeal Case No. C074539, which is pending  
11 litigation. It is the express intent of the Legislature that no party  
12 in that pending litigation be in any way prejudiced by the passage  
13 of this act. Therefore, the provisions of this act, except the addition  
14 of paragraph (4) to subdivision (a) of Section 34183 of the Health  
15 and Safety Code, shall not apply to the City of San Jose Successor  
16 Agency. Furthermore, this act shall not be indicative of any  
17 legislative intent concerning any issues before the courts in that  
18 litigation, and no provision of this act shall be relied upon in any  
19 way regarding the issues pending before the courts in that litigation.

20 SEC. 4. If the Commission on State Mandates determines that  
21 this act contains costs mandated by the state, reimbursement to  
22 local agencies and school districts for those costs shall be made  
23 pursuant to Part 7 (commencing with Section 17500) of Division  
24 4 of Title 2 of the Government Code.

25 SEC. 5. This act is an urgency statute necessary for the  
26 immediate preservation of the public peace, health, or safety within  
27 the meaning of Article IV of the Constitution and shall go into  
28 immediate effect. The facts constituting the necessity are:

29 In order to avoid underfunded pension programs as a result of  
30 revenues derived from the imposition of a property tax rate,  
31 approved by the voters of a city, county, or city and county to make  
32 payments in support of pension programs and levied in addition  
33 to the property tax rate limited by subdivision (a) of Section 1 of  
34 Article XIII A of the California Constitution, being allocated first  
35 to successor agencies to make payments on the indebtedness  
36 incurred by the dissolved redevelopment agencies, with remaining  
37 balances being allocated in accordance with applicable  
38 constitutional and statutory provisions, instead of being paid  
39 entirely into the fund of the city, county, or city and county whose

- 1 voters approved the tax, it is necessary that this act take effect
- 2 immediately.

O